

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Sang	Team: Team # 6	CCRB Case #: 9902381	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Saturday, 05/22/1999 3:30 PM	Location of Incident: Complainant's residence	18 Mo. SOL 11/22/2000	Precinct: 52		
Date/Time CV Reported Sat, 05/22/1999 1:01 AM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Sun, 05/23/1999 12:58 PM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. PO Matthew Mccrosson	19063	906771	052 PCT
2. Officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Thomas White	18909	905288	052 PCT
2. SGT Michael Flynn	00001	877655	052 PCT
3. DTS John Fraser	06841	877668	052 PCT
4. LT James Pagano	00000	855423	052 PCT
5. SGT Paul Stehlik	02916	896019	052 PCT
6. POM Thomas Kelly	25533	877909	052 PCT
7. POM Kyle Lowe	10362	890385	052 PCT
8. POF Pauline Perry	04713	915161	052 PCT
9. POM Miguel Bracero	17585	901209	052 PCT
10. POF Rachell Dwyer	22346	894941	052 PCT
11. POM Michael Garcia	16243	922397	052 PCT

Officer(s)	Allegation	Investigator Recommendation
A. PO Matthew Mccrosson	Force: PO Matthew McCrosson used excessive force when dealing with § 87(2)(b)	
B. PO Matthew Mccrosson	Discourtesy: PO Matthew McCrosson spoke to § 87(2)(b) in a rude and discourteous manner.	
C. Officer	Abuse: An Officer did not process § 87(2)(b)'s complaint regarding (an) officer(s).	

Synopsis

Officers responded to § 87(2)(b)'s house on a noise complaint. While there, one of the officers allegedly pushed, slammed, and cursed at § 87(2)(b). § 87(2)(b) lowered his music and was subsequently arrested for § 87(2)(b). After being issued two summonses at the precinct, § 87(2)(b) attempted to file a complaint. § 87(2)(b) alleged that an unidentified officer behind the desk and another unidentified officer in front of the desk denied him the opportunity to make a civilian complaint. § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

§ 87(2)(b)

Summary of Complaint

On Saturday May 22, 1999 at approximately 3:10 p.m., § 87(2)(b) and his wife, § 87(2)(b) were in their backyard with a friend, § 87(2)(b). Also outside was § 87(2)(b)'s § 87(2)(b) old mother in law, and his sister in law, § 87(2)(b). The § 87(2)(b)'s were having a barbecue and listening to Indian music in honor of § 87(2)(b)'s birthday. § 87(2)(b)'s § 87(2)(b)-old daughter was also in the yard. § 87(2)(b) decided to go for a walk so that he could smoke a cigarette, but when he got to the front of his home he saw three officers. All three officers were white and in uniform. Two officers were trying to jump over his fence and into his yard. § 87(2)(b) asked the officers if there was a problem. PO #1, who § 87(2)(b) later came to learn was PO McCrosson, was trying to wedge himself through a small fenced area (Enclosure 45a). This officer screamed at § 87(2)(b) to open the gate. § 87(2)(b) invited the officers to walk in through the side gate of his house, which led to the backyard (Enclosure 45b). Two of the officers, PO# 2 and PO #3, went in through the side gate, but PO McCrosson jumped over the fence and walked around the other side of the house. § 87(2)(b) and the other two officers walked to the backyard and were met by PO McCrosson. Once in the backyard, the officers told § 87(2)(b) that someone had complained about his music being played too loud. They asked him to shut the music off, so § 87(2)(b) went into his basement and turned off the music. As he was attempting to leave the basement, PO McCrosson and another officer came into the basement and blocked his path. § 87(2)(b) asked why the officers were coming into his basement after he had turned the music off. PO McCrosson, apparently angered by this question, slammed § 87(2)(b) against the wall and told him to get out of the basement. § 87(2)(b) said, no, that he did not have to leave his own house, the officers did. § 87(2)(b) told the officers that he had turned off his music in response to the complaint and there was no need for the officers to come into his home once he had complied with their request. § 87(2)(b) was slammed against the wall again, and then left the basement with the three officers. PO McCrosson told § 87(2)(b) that he was going to be arrested. PO McCrosson then asked § 87(2)(b) to produce some identification. As § 87(2)(b) was reaching into his wallet for identification, the officer began to yell at him and push him. § 87(2)(b) told the officer not to touch him. The officer responded by saying that he was going to arrest § 87(2)(b) and take him to the precinct. When § 87(2)(b) asked what he was going to be arrested for, PO McCrosson slammed him into a wall. § 87(2)(b) tried to give the officer his driver's license, but the officer was pushing him around too much. At this point, § 87(2)(b) said, "Why are you doing that?" to PO McCrosson. PO McCrosson told § 87(2)(b) that he was going to arrest her husband. PO McCrosson then grabbed § 87(2)(b)'s hands, handcuffed him, and squeezed the handcuffs painfully tight. PO McCrosson then tripped § 87(2)(b) made him fall on the floor, and then picked him up by the handcuffs. PO McCrosson cursed at § 87(2)(b) in front of his wife and child, saying, "I'm going to arrest this motherfucker." PO McCrosson then pulled § 87(2)(b)'s arms up behind him using the handcuffs and escorted him to the police car. § 87(2)(b) told the officer that he did not feel that he was being treated fairly. He stated that he turned off his music without protest, so there was no need for the officer to have taken things further. He stated that it was very embarrassing the way the officer treated him in front of his family and the fact that the officer used profanity in front of his child.

At the police precinct, PO McCrosson told § 87(2)(b) that if he did not sign the summons, he would be detained all night. § 87(2)(b) signed the summons and was released. § 87(2)(b) tried to file a

complaint against PO McCrosson, but the tall officer who was involved in the incident [possibly a sergeant] standing near the front desk said, “You don’t want to do that, you don’t want to start anything like that.” § 87(2)(b) left the precinct and went to file a complaint at a police courthouse on 164th St., but he was told that he could only file a complaint at a regular precinct. § 87(2)(b) then decided to file his complaint with the CCRB.

Results of Investigation

§ 87(2)(b) stated that she was at § 87(2)(b) in the Bronx, at the home of § 87(2)(b) and § 87(2)(b). They were having a Saturday barbecue in their backyard and listening to some music. § 87(2)(b)'s mother-in-law and sister-in-law were also at the barbecue. § 87(2)(b) was talking to the other women at the barbecue when she saw two uniformed officers coming into the yard with § 87(2)(b). She heard § 87(2)(b) ask a third officer why he had jumped over his fence. The third officer had come into the backyard seconds before § 87(2)(b) and the other officers. § 87(2)(b) said that there was no reason for the officer, PO McCrosson, to have jumped the fence because he could have easily come through the gate. One officer asked § 87(2)(b) to turn the music down. § 87(2)(b) went into his basement and turned the music off, because PO McCrosson said, “Off, I want it off!” § 87(2)(b) asked PO White what was going on. He answered that someone was complaining that the music was too loud. § 87(2)(b) did not understand why anyone would complain because the music was not very loud and no one had a hard time making conversation or hearing one another. § 87(2)(b) supposed that it was possible for people passing in front of the house to hear the music.

While § 87(2)(b) was talking to PO White, § 87(2)(b) was asking PO McCrosson not to come into the basement. § 87(2)(b) said that he had turned the music off as he was asked, so if the officer had anything else to discuss with him it should be done outside of his house. § 87(2)(b) heard a sound, and looked over and saw PO McCrosson grabbing and pulling § 87(2)(b) out of the basement. § 87(2)(b) asked PO White what the laws regarding loud music were. PO White said that he did not know any specific laws about loud music, only that if someone complains, the music must be lowered. He stated that if someone refuses to lower their music, the police are authorized to shut it off. PO White asked § 87(2)(b) for identification. PO McCrosson then handcuffed § 87(2)(b) with PO White’s help. § 87(2)(b) asked PO White why § 87(2)(b) was being arrested if he had turned the music off and that the first complaint should only result in a warning. PO White said that § 87(2)(b) was to be issued a summons. When § 87(2)(b) asked why he was being given a summons instead of just a warning, PO White said that she would have to ask PO McCrosson. § 87(2)(b) asked if he could leave his rings at home, but PO McCrosson said no. § 87(2)(b) was placed in an RMP and taken to the 52nd precinct. After his release at the precinct, § 87(2)(b) asked to file a complaint against PO McCrosson but he was told that he could not file one at the 52nd precinct. § 87(2)(b) believes that both PO McCrosson and another tall officer told § 87(2)(b) that he had to file his complaint at another precinct.

§ 87(2)(b) stated that she was sitting in a hammock when she saw a police officer coming into her backyard. A couple of seconds after, § 87(2)(b) came from the other side of the house with two police officers. § 87(2)(b) asked one officer, PO McCrosson, why he had jumped over the fence instead of coming in through the gate. PO McCrosson did not respond, but he told § 87(2)(b) that he wanted the music off. § 87(2)(b) went into his basement to turn off his stereo and asked PO McCrosson to wait outside the house. PO McCrosson went inside the basement right after § 87(2)(b). As § 87(2)(b) was exiting the basement, § 87(2)(b) heard him tell the officer to go outside and that he would talk to him outside. PO McCrosson grabbed § 87(2)(b) and pushed him up against the wall. He then escorted § 87(2)(b) out of the basement and asked him for identification. § 87(2)(b) eventually provided the officers with her husband’s identification. PO McCrosson handcuffed § 87(2)(b) with the help of another officer. § 87(2)(b) asked the officers if his wife could take his jewelry since he was being taken to the precinct, but they refused. At the 52nd precinct, PO White gave § 87(2)(b) her husband’s rings and watch to hold onto. When § 87(2)(b) was released, he tried to file a complaint against PO McCrosson, but was told he could not. A tall white male wearing a white shirt, no facial hair, with short blonde hair, told § 87(2)(b) he could not file a complaint.

§ 87(2)(b) stated that she was sitting in the backyard with her sister, a friend, and their mother, who was sleeping in the hammock, when three police officers came into the backyard with § 87(2)(b). One of the officers, later identified as PO McCrosson, entered the backyard through § 87(2)(b)'s side lot. Seconds later, the two other police officers came from the side of the house with § 87(2)(b). § 87(2)(b) asked PO McCrosson why he had jumped the fence instead of coming in through the gate as the other two officers had. An officer asked § 87(2)(b) to turn his music off. Moments after § 87(2)(b) went into the basement, PO McCrosson went behind him. When PO McCrosson tried to follow him, § 87(2)(b) asked the officer to wait outside the house and said that they could speak in the yard. As § 87(2)(b) turned off the music and exited the basement he was asked for identification. § 87(2)(b) was told to put his hands up in the air, after which he was pushed against the wall and handcuffed by PO McCrosson. § 87(2)(b) was then taken to the 52nd precinct. § 87(2)(b) does not understand why her brother-in-law was arrested over a noise complaint.

§ 87(2)(b) and § 87(2)(b)'s § 87(2)(b)-old daughter was not interviewed for this case, because the § 87(2)(b)s do not want their child involved in this case. § 87(2)(b)'s mother in law was also not interviewed for this case. § 87(2)(b) stated that his mother in law is elderly and ill. Besides she was sleeping when the incident began.

Subject officer PO Matthew McCrosson stated that on May 22, 1999, he and his partner, PO Thomas White, responded to a noise complaint at § 87(2)(b). The officers had just come off meal and were given the assignment from the station house. As they approached the block, they could hear the noise coming from a private house down the block. As they arrived at the [private] house they realized that the music was coming from the backyard. The officers knocked on the door, but no one answered. After knocking for about a minute or so, PO McCrosson leaned over the banister to see if he could see into the backyard. The officers did not have any access to the backyard, so they rang the bell again. Moments later, the owner, later identified as § 87(2)(b), appeared at a gate to the side of the house. PO White told § 87(2)(b) that they were there on a complaint about the noise, and that the neighbors had complained about the music. § 87(2)(b) became belligerent and refused to let the officers in, telling them that they had no right to tell him what to do in his house. PO McCrosson stated that § 87(2)(b) stated that he could do whatever he wanted. Eventually, § 87(2)(b) let the officers in through the side gate and they went to the backyard. § 87(2)(b) had a wall of speakers in the backyard, stacked up five feet high. The officers had to scream in order to communicate with him. § 87(2)(b) refused to turn the music down, telling the officers that they had no right to be there and they had no right to tell him what to do on his property. This conversation went on for a few minutes, after which PO McCrosson told him that if he refused to turn off the music his stereo could be taken. PO McCrosson also told him that he was going to be issued a summons for the noise. § 87(2)(b) eventually turned the music down, but refused to give the officers identification. PO McCrosson told § 87(2)(b) that he was going to be taken down to the precinct, so he instructed him to turn around and place his hands behind his back. § 87(2)(b) did not actively resist, but he wasn't compliant. His arms were pulled behind his back, but he really didn't fight. § 87(2)(b)'s wife asked the officers to give him a chance. § 87(2)(b) was taken to the precinct and issued a summons for the noise and for disorderly conduct.

PO McCrosson stated that the disorderly conduct was the yelling and screaming that § 87(2)(b) engaged in when he initially interacted with the officers. He stated that § 87(2)(b) exited the gate and came onto the sidewalk and yelled and screamed causing neighbors to crowd around. PO McCrosson stated that § 87(2)(b) had identification in his hand, but refused to give it to him. He stated that it was not until he was arrested that § 87(2)(b) gave the i.d. PO McCrosson stated that he never entered the house, but he was in the doorway. He stated that he was able to see § 87(2)(b) lower the music. PO McCrosson stated that there was no pushing or slamming of § 87(2)(b) at anytime. He stated that there was only limited, not excessive, force used to arrest/handcuff § 87(2)(b). PO McCrosson stated that he called the sergeant to the scene and he came and verified the arrest. He stated that the sergeant did not go inside the house or in the backyard. PO McCrosson stated that § 87(2)(b) did not call the officers over to the gate, and he did not tell § 87(2)(b) to open the front door. He stated that he did make an attempt to go to the backyard through the fence, but he ultimately entered through the gate. PO McCrosson stated that § 87(2)(b) did not ask him why he jumped the fence and not enter through the gate, but he did state that while out front,

§ 87(2)(b) did ask him where he thought he was going (referring to PO McCrosson's attempt to go to the back via jumping the fence).

Witness, PO Thomas White stated that he and his partner, PO McCrosson, were given an assignment from the precinct, concerning a noise complaint. As they pulled up to the location, they heard the noise from inside the vehicle. PO McCrosson attempted to pass between the house and a fence next to an adjacent lot, in order to get a view of the backyard. Suddenly, § 87(2)(b) approached at a gate from the side of the house. § 87(2)(b) began yelling at the officers asking them what they were doing, and cursing at them. One of the officers told him that they had a complaint about the noise from the neighbors, and asked him to lower the radio. § 87(2)(b) replied no. The officers asked him again, and he replied no, a second time. The officers then asked him if they could go into the backyard. § 87(2)(b) replied that they could come into the backyard but he was not turning down the music. Once in the backyard, PO White noticed a few people he believed to be family members of § 87(2)(b) and two big speakers. PO White stated that he could not believe how loud the music was, and was attempting to speak over the music. § 87(2)(b) was asked about two or three times to lower the music, but he refused. He was asked for some identification because he was going to be issued a summons. At this time, § 87(2)(b) stated that he would lower the music. As he went into the basement, POs White and McCrosson went to the doorway in order to keep an eye on § 87(2)(b) to see what he was doing. As § 87(2)(b) returned to the doorway, he was informed that he would be receiving a summons, and was asked for identification. § 87(2)(b) took out a driver's license but refused to give it to PO White. He held it out, but then pulled it back as PO White attempted to get it. The officers decided that § 87(2)(b) was going to be arrested for refusing to identify himself. He was instructed to turn around, which he did. He was told to put his hands behind his back, but he refused. POs White and McCrosson then took his arm and brought it behind his back. A woman, believed to be § 87(2)(b)'s wife then came over and asked the officers please not to arrest him. § 87(2)(b) was escorted to the front of the house, at which time a supervisor was called to the scene. The sergeant arrived and after listening to the officers, advised them to take § 87(2)(b) to the precinct. At the precinct § 87(2)(b) was issued two summonses by PO McCrosson and released.

PO White does not recall where § 87(2)(b) came out from. He believes § 87(2)(b) came out of the front door. PO White stated that § 87(2)(b) told them that they couldn't go "that way" you must go "this way," referring to PO McCrosson's attempt to jump the fence. After going through the gate to the backyard, both he and his partner spoke to § 87(2)(b) telling him to lower the music. § 87(2)(b) refused to lower the music, stating that he was having a party. PO White stated that the sergeant was on the scene for about 5-7 minutes, and the sergeant's driver did not even get out of the car. He stated that PO McCrosson did not go through the lot and jump the fence, but he was about to. He stated that he was actually squeezing through the fence when § 87(2)(b) arrived. PO White stated that PO McCrosson did not slam, push or use any force while handcuffing § 87(2)(b). He stated that § 87(2)(b) did not ask PO McCrosson why he jumped the fence and not come around as the other officers did. He also stated that § 87(2)(b) did not ask PO McCrosson why he came into his basement or tell him there was no reason for coming into the basement. PO White stated that § 87(2)(b) received the § 87(2)(b) summons because he was yelling, screaming, and cursing in front of the house [on the sidewalk] causing numerous neighbors to come out. PO White stated that PO McCrosson did not yell or scream at § 87(2)(b) in a discourteous manner, however, he did raise his voice because of the music.

Sergeant Michael Flynn, who was the patrol supervisor on May 22, 1999, stated that PO McCrosson called him and his partner, PO Fraser, to § 87(2)(b). Sgt. Flynn was needed to verify an arrest of § 87(2)(b) who resides at that address. PO McCrosson and his partner, PO White, had explained that they had received a noise complaint from the base. They stated that they heard the noise from down the block, and when they went to the house they saw a big stereo system. Sgt. Flynn stated that the officers informed him that they wanted to issue § 87(2)(b) a summons, but he refused to give identification. § 87(2)(b) was placed under arrest for § 87(2)(b), and placed in a vehicle. Sgt. Flynn spoke to § 87(2)(b) and ordered him taken to the station.

Sgt. Flynn stated that he did not see the big speakers or stereo system, but the officers told him. He stated that PO Fraser was not involved in the incident, except that he drove the sergeant. Sgt. Flynn stated that PO Fraser did not speak to § 87(2)(b) nor did he get out of the car. Sgt. Flynn stated that he was on the

scene for, “a minute, two minutes.” After pointing out that the radio run shows him on the scene for at least 30 minutes, Sgt. Flynn stated that when they call him he has to drive to the location, and central obviously put him out when they put PO McCrosson and PO White out. He stated that he did not enter the house and he was not there during the arrest. Sgt. Flynn insisted that he was there after the incident and for a brief moment. He stated that the officers told him that § 87(2)(b) refused to give identification and that he was yelling and screaming, which is why he was arrested for disorderly conduct. Sgt. Flynn stated that he does not recall seeing § 87(2)(b) at the precinct. He stated that he does not know anything about § 87(2)(b) being refused the right to make a civilian complaint. Finally, Sgt. Flynn stated that he might not have gotten to the scene at the time central indicated he was.

Det. John Fraser, who was a police officer at the time of the incident, was functioning as the sergeant’s operator, driving Sgt. Flynn. Sgt. Flynn was called to § 87(2)(b) in order to verify an arrest. When they arrived Sgt. Flynn exited the vehicle and spoke to the officers and the arrested individual. Det. Fraser did not exit the vehicle and he does not know what took place. Det. Fraser stated that he does not know what time they received the call or what time they arrived at the scene. He also stated that he does not recall how long they stayed on the scene. Det. Fraser does not remember if the sergeant went into the house or the backyard. Finally, Det. Fraser stated that he did not witness any of the allegations made in this case, and he had no contact with the arrested individual.

Lt. Pagano stated that he knows nothing of this incident firsthand. He stated that what he knows of this incident is hearsay. He stated that on the date of occurrence he worked two tours (12 X 8 and 8 X 4) and he was assigned as the desk officer for both tours. He states that at the time § 87(2)(b) would have been brought into the station he would have been off the desk, because he signed out at 15:08 hrs. He stated that Sgt. Stehlik relieved him.

Sgt. Stehlik stated that he has no knowledge of this incident. He stated that he was the desk officer on the 4 X 12 tour on May 22, 1999 and do not recall interacting with a § 87(2)(b). He stated that if someone came to the desk to file a complaint while he was on the desk they would have been given the proper paperwork and the complaint would be taken. Sgt. Stehlik stated that he relieved Lt. Pagano at 1508 hours according to the command log. Sgt. Stehlik stated that there is definitely an overlap of officers between tours. He stated that between 1505 and 1535 there could be officers from either tour present.

PO Kyle Lowe and PO Thomas Kelly were arrest-processing officers from the 8 X 4 and 4 X 12 Tours, respectively. They were interviewed as possible subjects to the refusal to take complaint allegation. In sum, both officers stated that they have no knowledge of the incident. PO Lowe stated that at 3:45 p.m., he would probably have departed. PO Kelly stated that though 8 X 4 officers could have been present, it is more likely that 4 X 12 officers were present.

PO Pauline Perry and PO Miguel Bracero were TS operators from the 8 X 4 and 4 X 12 Tours, respectively. They were also interviewed as possible subjects to the refusal to take complaint allegation. Both officers claim that they have no knowledge of the incident. PO Perry stated that she does not recall PO McCrosson coming in with a prisoner § 87(2)(b) on that day, nor does she recall anyone asking to fill out a civilian complaint. PO Bracero stated that he was on limited duty at the time of the incident because of an off duty injury. He stated that he does remember seeing PO McCrosson and PO White filling out paperwork that day. He stated that, at that time he was on his way to the locker room to suit up for work. PO Bracero does not recall anyone asking to fill out a civilian complaint.

PO Rachell Dwyer from the 8 X 4 Tour and PO Michael Garcia from the 4 X 12 Tour were interviewed as witnesses in this case. PO Dwyer, who was the stationhouse clerk, stated that she has no knowledge of the incident. She stated that she was posted in the 124 room, which is situated 10 feet before the front desk and is off to the left. PO Dwyer stated that she does not recall PO McCrosson bringing in a prisoner on that day and she does not recall anyone requesting to file a civilian complaint. PO Garcia, who was stationhouse security, also stated that he knows nothing of the incident. He stated that his assignment involved patrolling the precinct, the parking lot area, the front of the precinct, etc. PO Garcia stated that he is not stationary and that sometimes he is in the locker rooms, downstairs, etc.

PO Finnbar Fleming, who is listed as the Assistant Desk Officer on the 8 X 4 Tour, was not interviewed for this case. PO Fleming took "lost time" at 12:00 p.m., on that day; therefore, he was not present at the time of occurrence.

The medical records state that § 87(2)(b) told the doctor that he was having a barbecue on Saturday May 22, 1999, and playing loud music when the police came into his basement and pushed and handcuffed him. He stated that he was issued a summons for playing loud music and charged with disorderly conduct. The medical records state that § 87(2)(b) suffered a little swelling and two scratches to the right wrist (Enclosure 34a).

According to the radio run, PO McCrosson and PO White called in to central that they were headed to § 87(2)(b) regarding "61" from the base. That call was transmitted at 2:57 p.m. PO McCrosson and his partner then called in at 3:19 p.m., that they had one under and were headed to the stationhouse (Enclosure 36).

§ 87(2)(g) Since the incident at the precinct bordered on two tours, photos of possible officers were obtained. § 87(2)(b) indicated that he would not be able to identify the officer (Enclosure 45c). In fact, § 87(2)(b) stated that at this time he would not be able to recognize the officer who arrested him. § 87(2)(b) also stated that she would not be able to recognize the officer (Enclosure 45d). § 87(2)(b) stated that she doubts she would be able to pick out the officer, but she was willing to try. A photo array was conducted with § 87(2)(b) on March 14, 2000, but she was unable to identify an officer. § 87(2)(g)

§ 87(2)(b) stated that he asked a uniformed officer behind the desk to file a complaint. He stated that the officer, possibly Det. Fraser, responded in that manner. § 87(2)(g)

Conclusions and Recommendations

§ 87(2)(g) PO McCrosson stated that as he approached the block in his police vehicle he could hear noise coming from a private house down the street. He stated that as he approached the house he heard music coming from the backyard. PO McCrosson further stated that when he and his partner went in the backyard, they saw speakers stacked up five feet high. Both PO McCrosson and PO White stated that the music was so loud that they had to scream to communicate with § 87(2)(b) § 87(2)(b) and the witnesses interviewed stated that the music was not loud at all. § 87(2)(g)

Both § 87(2)(b) and § 87(2)(b) stated that no one had any difficulty hearing anyone else, so the music could not have been too loud. § 87(2)(g)

§ 87(2)(g)
§ 87(2)(b) had his § 87(2)(b) old daughter and very ill and elderly mother-in-law present. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)
§ 87(2)(b) Upon visit to the § 87(2)(b)'s residence, this investigator observed no such speakers. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

PO McCrosson and PO White both stated that § 87(2)(b) refused to lower the music when told to do so. They stated that § 87(2)(b) came out of his gate and walked onto the sidewalk yelling and screaming at them. The officers stated that § 87(2)(b) said they had no right to tell him what to do on his property, causing neighbors to come outside. § 87(2)(g)
§ 87(2)(b) It is clear, from all parties interviewed, that § 87(2)(b) did turn the music off. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

The officers stated that § 87(2)(b) exited his gate and came onto the sidewalk, yelling at the officers for attempting to go over the gate. § 87(2)(b) indicated that he told PO McCrosson not to go over the fence, but to come through the gate. § 87(2)(g)
§ 87(2)(b) He stated that when he went around to the back with two of the three uniformed officers, he encountered PO McCrosson already there. It was at that point that he asked the officer why he jumped the fence. PO McCrosson immediately told § 87(2)(b) to lower the music. All the witnesses interviewed corroborated this part of the story. § 87(2)(b) went downstairs to lower the music, and was followed by PO McCrosson. After lowering the music, § 87(2)(b) told PO McCrosson not to enter his house. He told the officer that there was no need for the officer to enter his home. § 87(2)(g)
§ 87(2)(b) PO McCrosson claims that the disorderly conduct was the yelling and screaming which took place on the sidewalk initially. § 87(2)(g)
§ 87(2)(g)

As mentioned earlier, § 87(2)(b) claims that PO McCrosson jumped the fence and entered the backyard after being told, specifically, not to do so. PO McCrosson on the other hand, stated that he did not jump the fence although he was about to. All the witnesses interviewed stated that PO McCrosson entered the backyard first, by himself, and from the opposite side of the house. § 87(2)(g)
§ 87(2)(g)
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With regards to the sergeant being on the scene, both Officers McCrosson and White support Sgt. Flynn's assertion that he was not on the scene during the incident. They claim that he was called to the scene afterwards to verify the arrest. § 87(2)(g)

From the radio run and sprint printout we can tell that PO McCrosson and PO White were headed to the location at 2:57 p.m. They arrived at the location at 3:11 p.m. We know that they called in the arrest at 3:19 p.m. , and the job was closed out at 3:42 p.m. § 87(2)(g)

Sgt. Flynn stated that he was on the job for a minute or two, while PO McCrosson stated that he was there five to six minutes. Sgt., Flynn's partner, PO Fraser, was at the scene but did not exit vehicle. § 87(2)(g)

§ 87(2)(g)

They all agreed that one officer [PO McCrosson] entered the backyard first and by himself. They all agreed that § 87(2)(b) asked PO McCrosson why he jumped the fence. They all agreed that § 87(2)(b) was told to either turn off or lower the music, and they all agree that he did it. They all agree that PO McCrosson followed § 87(2)(b) into the basement and was told by § 87(2)(b) not to come in. Finally, they all agreed that PO McCrosson used some level of force on § 87(2)(b) § 87(2)(g)

§ 87(2)(g)

Allegation A states that PO McCrosson used physical force when dealing with § 87(2)(b) § 87(2)(b) stated that PO McCrosson used force on him a few times prior to arresting him. PO McCrosson stated that no force was used on § 87(2)(b) because § 87(2)(b) did not actively resist. PO White supports his partner by stating that there was no force used. Sgt. Flynn states that he was not present, therefore he would not have witnessed any force. All the witnesses claim some evidence of force. § 87(2)(b) stated

that she heard a sound and saw PO McCrosson grabbing and pulling § 87(2)(b) out of the basement. § 87(2)(b) stated that PO McCrosson grabbed § 87(2)(b) and pushed him up against the wall. § 87(2)(b) stated that § 87(2)(b) was pushed up against the wall and handcuffed. § 87(2)(g)

Allegation B states that PO McCrosson spoke to § 87(2)(b) in a rude and discourteous manner. Whereas § 87(2)(b) stated that PO McCrosson yelled and cursed at him, the officer claims he did not. None of the witnesses recall PO McCrosson using any discourteous language. § 87(2)(g)

Allegation C states that an unidentified officer refused to take a civilian complaint from § 87(2)(b). § 87(2)(b) stated that after being released he went to the front desk and asked an uniformed officer behind the desk to file a complaint. Before the officer could respond, another very tall white, male officer told him, “You don’t want to do that, you don’t want to start anything like that.” § 87(2)(g)

They all describe the very tall officer wearing a white shirt, but at the time of the interview they did not recall if he was in uniform or plainclothes. As a result, numerous officers were called down from the 52nd Precinct as possible subjects. Since this allegation occurred during a shift change, officers from two tours were interviewed. In addition a photo array was conducted with § 87(2)(b) but she was unable to identify any officer (Enclosures 6-6a). A photo array was not conducted with § 87(2)(b) and the other witnesses because they stated that they would not be able to identify the officers (Enclosures 45c and 45d). § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: